

Item # _____

Prepared by: Gloria Kelly
Real Estate Services

Approved by: Lisa Kelly
County Attorney

RESOLUTION APPROVING THE GRANT OF A PERMANENT CONSERVATION EASEMENT TO SHELBY COUNTY GOVERNMENT, FOR THE USE AND BENEFIT OF THE CITIZENS OF SHELBY COUNTY, TENNESSEE, ACROSS APPROXIMATELY 38.845 ACRES OF REAL PROPERTY OWNED BY CITY OF MEMPHIS AND COUNTY OF SHELBY, FOR THE USE AND BENEFIT OF THE CHICKASAW BASIN AUTHORITY, FOR WETLAND MITIGATION. SPONSORED BY COMMISSIONER MATT KUHN.

WHEREAS, City of Memphis and County of Shelby, for the use and benefit of the Chickasaw Basin Authority, own approximately 620 acres of land located on the east side of Bethany Road, approximately 396 feet south of Bethany Place Road, and further identified as Tax Parcel No. D0222 00482; and

WHEREAS, The Chickasaw Basin Authority at its regularly scheduled board meetings on April 24, 2003, February 25, 2008 and July 17, 2009 approved motions to grant wetland mitigation rights across up to 50.5 acres of the subject tract of land to satisfy the wetland mitigation requirements for the identified Capital Improvement Projects; and

WHEREAS, In order to satisfy said wetland mitigation requirements, it is now necessary for City of Memphis and County of Shelby, acting through the Chickasaw Basin Authority, to convey, transfer and grant a Permanent Conservation Easement, approximately 38.845 acres in size, unto Shelby County Government, for the use and benefit of the Citizens of Shelby County, Tennessee, for wetland mitigation; and

WHEREAS, T.C.A. § 5-7-101 allows the County to make any order for the disposition of its real property, including but not limited to the granting of easements across the same; and

WHEREAS, Shelby County Government, on behalf of the general public, desires to accept such a Permanent Conservation Easement under such conditions as stipulated in the Permanent Conservation Easement, a copy of which is attached hereto and is hereby incorporated by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the aforementioned Permanent Conservation Easement be and is hereby conveyed, transferred and granted unto Shelby County Government, for the use and benefit of the Citizens of Shelby County, Tennessee;

and that the Mayor be and he is authorized to execute the attached Permanent Conservation Easement granting the same.

BE IT FURTHER RESOLVED, That the Permanent Conservation Easement and covenants contained therein are perpetual and shall run with the land.

BE IT FURTHER RESOLVED, That this Resolution shall take effect from and after the date it shall have been enacted according to due process of law, the public welfare requiring it.

Joe Ford, Interim County Mayor

Date: _____

ATTEST:

Clerk of County Commission

ADOPTED _____

SUMMARY SHEET

I. Description of Item

Approves the grant of a Permanent Conservation Easement, approximately 38.845 acres in size, to Shelby County Government, for the use and benefit of the Citizens of Shelby County, Tennessee, for wetland mitigation; this Permanent Conservation Easement Area lies within a 620 acre tract of Real Property owned by City of Memphis and County of Shelby, for the use and benefit of the Chickasaw Basin Authority, located on the east side of Bethany Road, approximately 396 feet south of Bethany Place Road; the grant of this Permanent Conservation Easement is needed to satisfy the mitigation requirements of the listed Capital Improvement Projects. Based upon the above, the Administration recommends that this Permanent Conservation Easement be approved.

II. Source and Amount of Funding

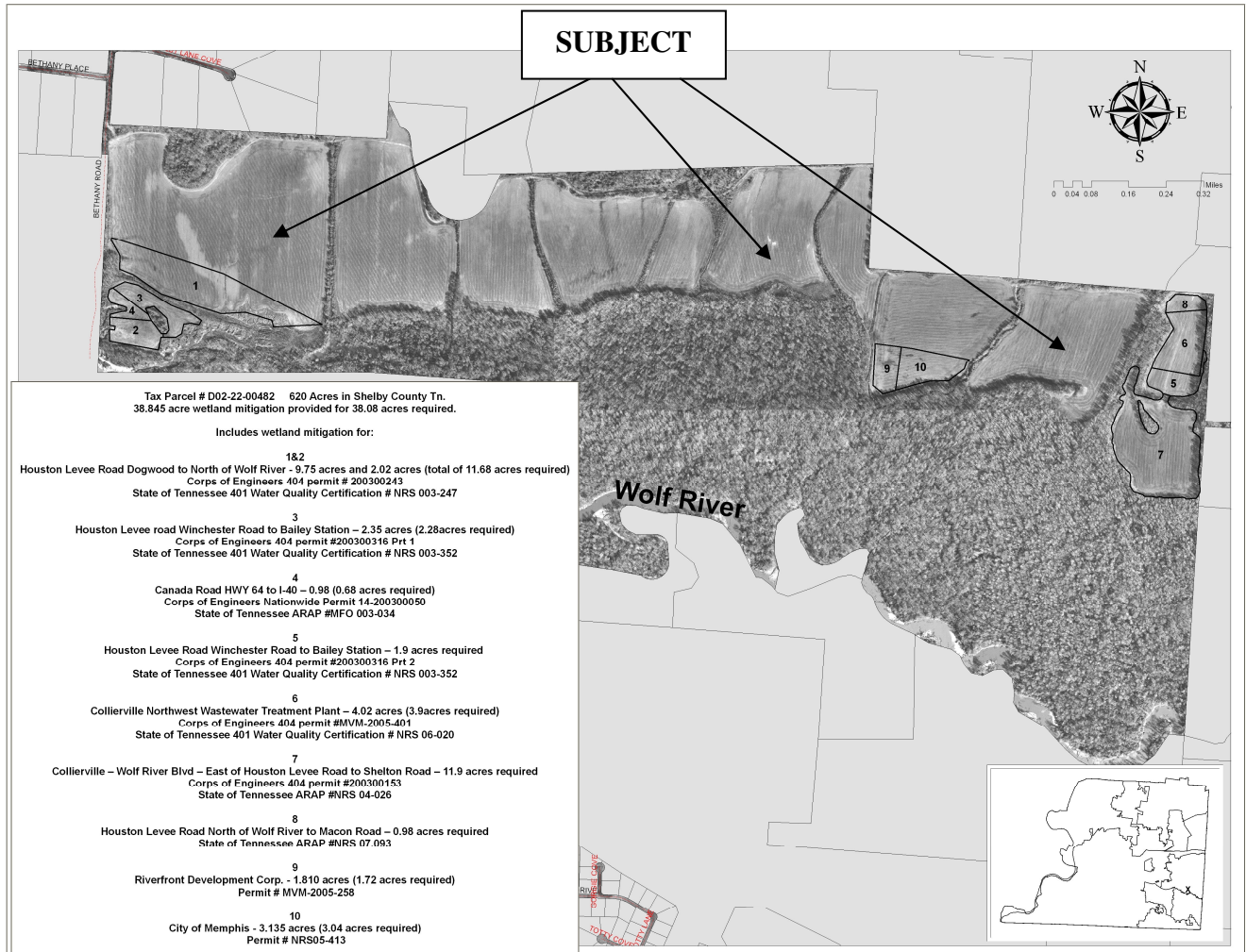
No County Funds Required

III. Contract Items

Permanent Conservation Easement

IV. Additional Information Relevant to Approval of this Item

Property Map



**PERMANENT CONSERVATION EASEMENT
BETHANY ROAD TRACT WETLAND MITIGATION
SHELBY COUNTY, TENNESSEE**

THIS AGREEMENT, Made on this the _____ day of _____, 20____, by and between **City of Memphis, a Municipal Corporation of the State of Tennessee, and County of Shelby, a Political Subdivision of the State of Tennessee, acting through the Chickasaw Basin Authority** (hereinafter termed "Party of the First Part") and **Shelby County Government, for the Use and Benefit of the Citizens of Shelby County, Tennessee**, (hereinafter termed "Party of the Second Part").

WHEREAS, The Party of the First Part is the owner of approximately 38.845 acres (the "Property") in Shelby County, Tennessee, being part of the same property conveyed to City of Memphis and County of Shelby, for the use and benefit of the Chickasaw Basin Authority, by Warranty Deed of Record as described in the Register's Office of Shelby County, Tennessee, in the Register's Official Record Book under Instrument Number GD 9579, which Property is more particularly described as Area 1 through Area 10 as shown in Exhibit "1", attached hereto and made a part hereof.

WHEREAS, The Party of the First Part desires to convey, transfer, and grant unto the Party of the Second Part a Permanent Conservation Easement on the entirety of said Area 1 through Area 10 described in Exhibit 1 for the following purposes:

1. To protect and preserve in perpetuity, the aesthetic, educational, or ecological values of said property.
2. To protect and conserve the natural habitat of fish, wildlife, plants, and the ecosystem.
3. For the preservation of wetlands on said Property.

WHEREAS, The Party of the Second Part, on behalf of the general public, has agreed to accept such a Permanent Conservation Easement for the purposes stated above and to enter into this Permanent Conservation Easement to set aside the Property for the purposed described hereinabove.

NOW, THEREFORE, The Party of the First Part, its successors and assigns, hereby grant unto the Party of the Second Part, a Permanent Conservation Easement on, in, over and upon the entirety of the Property described as Area 1 and Area 10 as shown in Exhibit 1. The Party of the First Part, its successors and assigns, covenant and agree with the Part of the Second Part as follows with regard to the Property:

1. That there shall be no removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of any vegetation nor disturbance or change in the natural habitat in any manner. That there shall be no planting or introduction of any vegetation other than that described in the Section 404 permit for the project designated for each separate tract of said Property.
2. That any agricultural, commercial or industrial activity is prohibited. That there shall be no right of passage across or upon the Property if that right of passage is used in conjunction with agriculture, commercial or industrial activity.
3. The Property shall not be used for grazing or as a habitat for any domestic or exotic animals.
4. That any filling, excavating, mining, drilling or dredging of the Property is prohibited. Removal of topsoil, sand, gravel, rock, minerals or other materials from the Property is prohibited. Dumping of ashes, trash, garbage, or any other material is prohibited. The topography of the Property shall not be changed in any manner, except as required by any permit pertaining to the construction of the wetland in connection with a permit so issued.

5. That any construction or placing of temporary or permanent buildings, docks, bridges, piers and similar structures, or mobile homes, advertising signs, billboards, or other advertising material or structures on the Property is prohibited.
6. That there shall be no building of new roads or any other rights of way, on widening of existing roads on the Property except as required by local governmental agencies.
7. That any disruption of any free flowing waters by damming, dredging or construction or other alteration of natural water courses, lakes, ponds, marshes or wetlands on the Property or any other activities or uses detrimental to water purity is prohibited.
8. That there shall be no operation of dune buggies, motorcycles, all-terrain vehicles or any other types of motorized vehicles on the Property.

In the event that a breach of these restrictions by the Party of the First Part or by a third party comes to the attention of the Party of the Second Part, the Party of the Second Part must notify the Party of the First Part in writing of such a breach. The Party of the First Part shall have 30 days after receipt of such notice to undertake corrective action including such restoration of the Property as is reasonably calculated to correct swiftly the conditions constituting such a breach. If the Party of the First Part fails to take such corrective action, the Party of the Second Part shall, at its discretion, undertake such actions, including appropriated legal proceedings, as are reasonably necessary to affect such corrections; and the cost of such corrections, including the Party of the Second Part's expenses, court costs and legal fees shall be the responsibility of the Party responsible for the breach.

The Parties hereto further agree that the easement and covenants herein contained are perpetual and shall run with the land and that this Easement Agreement is subject to any existing easements.

IN WITNESS WHEREOF, The Parties hereto have caused this instrument to be executed by and through its duly authorized officers the day and year first above written.

Party of the First Part: CITY OF MEMPHIS AND COUNTY OF SHELBY, ACTING THROUGH THE CHICKASAW BASIN AUTHORITY

CHICKASAW BASIN AUTHORITY

By: _____
Charles R. Perkins, Chairman

Approved as to Form:

By: _____
CBA Attorney

CITY OF MEMPHIS, TENNESSEE

SHELBY COUNTY, TENNESSEE

By: _____
A C Wharton, Jr., City Mayor

By: _____
Joe Ford, Interim County Mayor

Approved as to Form:

Approved as to Form:

By: _____
City Attorney

By: _____
Assistant County Attorney

Other City Approvals:

By: _____
Director of Public Works

By: _____
Director of General Services

By: _____
City Real Estate Manager

Other County Approvals:

By: _____
Director of Public Works

By: _____
Land Bank Administrator

By: _____
County Real Estate Manager

Party of the Second Part: SHELBY COUNTY GOVERNMENT, FOR THE USE AND BENEFIT OF THE CITIZENS OF SHELBY COUNTY, TENNESSEE

SHELBY COUNTY, TENNESSEE

By: _____
Joe Ford, Interim County Mayor

Approved as to Form:

By: _____
Assistant County Attorney

Other County Approvals:

By: _____
Director of Public Works

By: _____
Land Bank Administrator

By: _____
County Real Estate Manager

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared **CHARLES R. PERKINS**, with whom I am personally acquainted, and who upon oath acknowledged himself to be the **Chairman of the Chickasaw Basin Authority**, the within named bargainor, and that he as such **Chairman**, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the **Chickasaw Basin Authority** by himself as such **Chairman**.

WITNESS my hand and Notarial Seal, at office in the City of Memphis, in the County aforesaid, this ____ day of _____, 20____.

Notary Public

MY COMMISSION EXPIRES:

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared **JOE FORD, Interim Mayor of Shelby County, Tennessee**, with whom I am personally acquainted, and who upon oath acknowledged himself to be the **Mayor of Shelby County, Tennessee**, the within named bargainor, one of the counties of the State of Tennessee, and that he as such **Mayor** of said county, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of **Shelby County, Tennessee**, by himself as such **Mayor** of said **Shelby County, Tennessee**.

WITNESS my hand and Notarial Seal, at office in the City of Memphis, in the County aforesaid, this ____ day of _____, 20____.

Notary Public

MY COMMISSION EXPIRES:

**STATE OF TENNESSEE
COUNTY OF SHELBY**

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared **A C WHARTON, JR., Mayor of the City of Memphis**, with whom I am personally acquainted, and who upon oath acknowledged himself to be the **Mayor of the City of Memphis**, the within named bargainor, one of the municipal corporations of the State of Tennessee, and that he as such **Mayor** of said city, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the **City of Memphis** by himself as such **Mayor** of said municipal corporation.

WITNESS my hand and Notarial Seal, at office in the City of Memphis, in the County aforesaid, this ____ day of _____, 20____.

Notary Public

MY COMMISSION EXPIRES:

(FOR RECORDING DATA ONLY)

Property Address:

Vacant Land

Part of Tax Parcel No:

D0222 00482

Mail Tax Bills to: (Person or Agency
responsible for payment of taxes)

Exempt - Government

Owners Name and Address:

**City of Memphis and County of Shelby,
for the Use and Benefit of the
Chickasaw Basin Authority
584 Adams Avenue
Memphis, TN 38103**

This instrument prepared by:

**Shelby County Government
Real Estate Services
584 Adams Avenue
Memphis, TN 38103
Phone No. (901) 545-3498**

EXHIBIT "1"

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Base Map

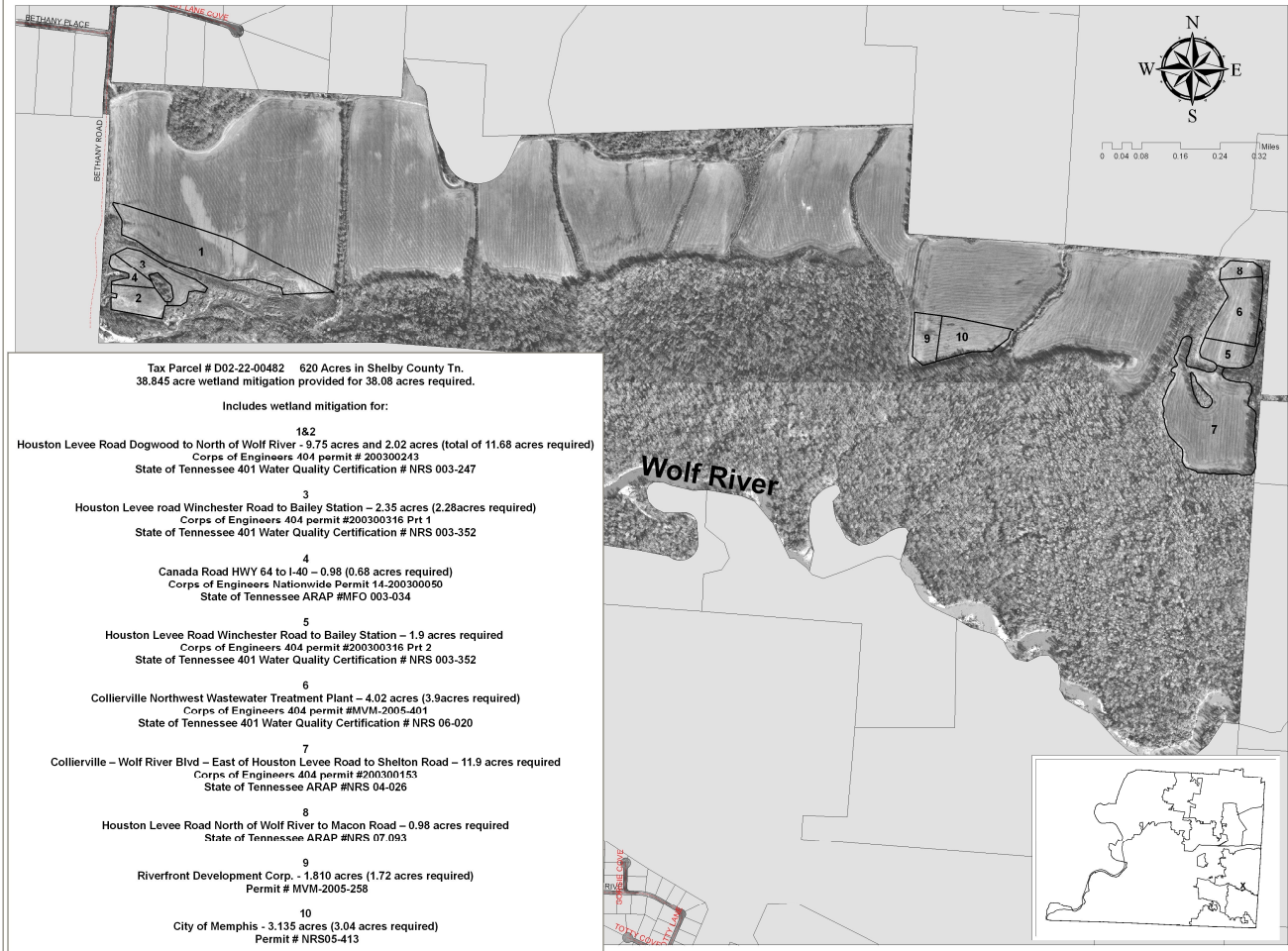


EXHIBIT "1"

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West Side

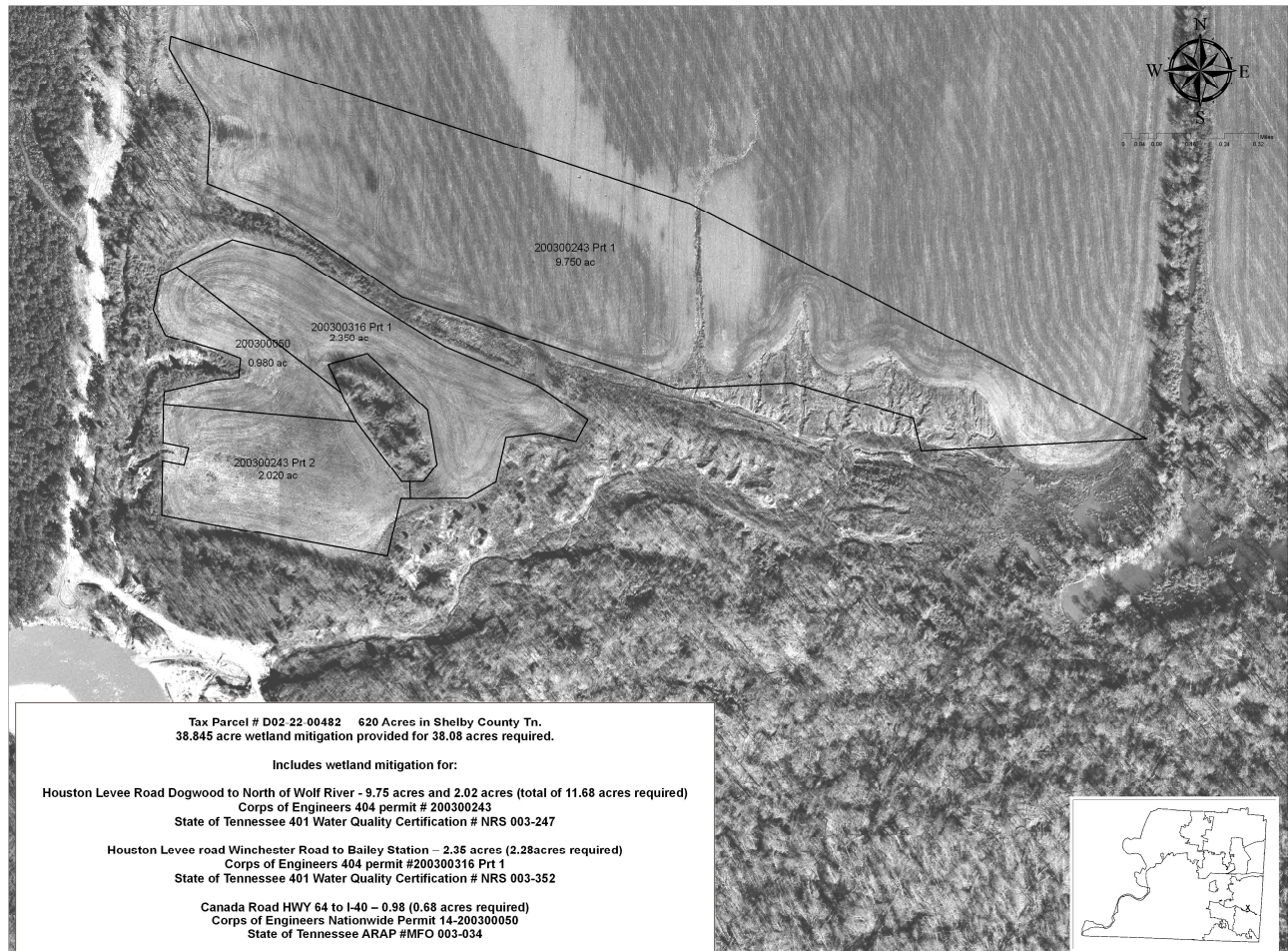


EXHIBIT "1"

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Central

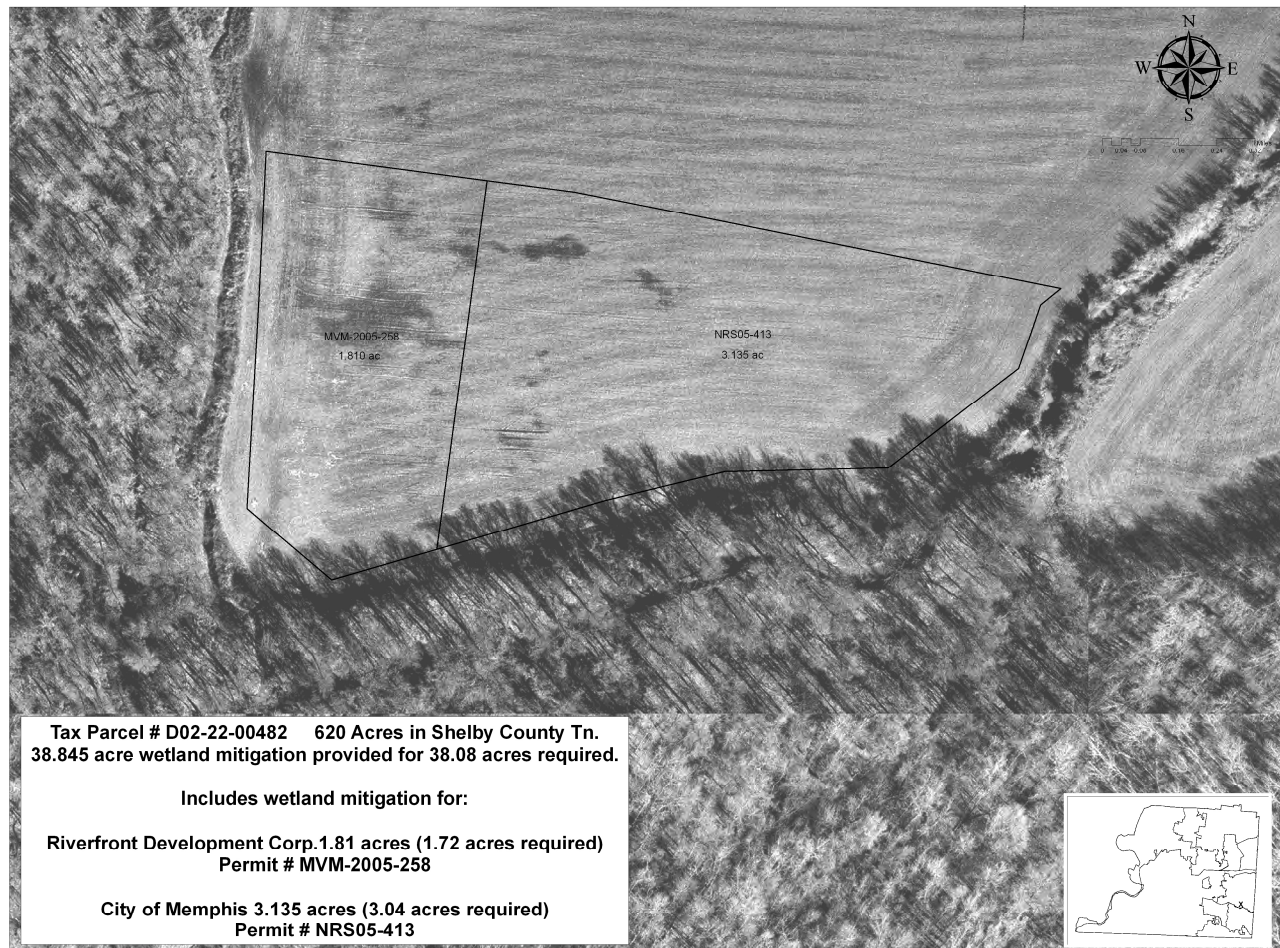
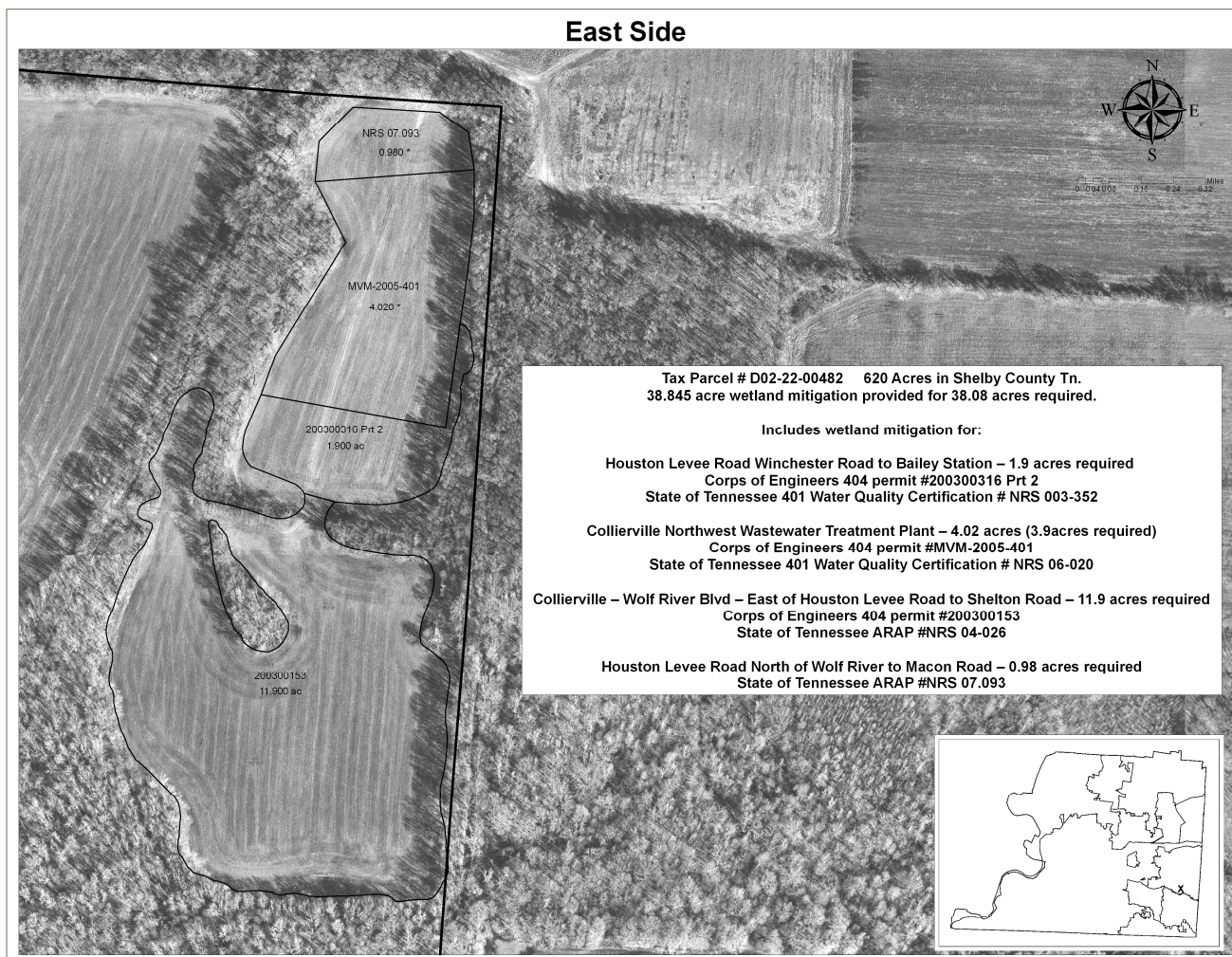


EXHIBIT "1"

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**Description of Conservation Easement Area 1 through Area 10**

This easement is 38.845 acres in size over, under, across, and upon at tract of land situated in Shelby County, Tennessee, being part of the same property conveyed to City of Memphis and County of Shelby, for the use and benefit of the Chickasaw Basin Authority, by Warranty Deed of Record as described in the Register's Office of Shelby County, Tennessee, in the Register's Official Record Book under Instrument Number GD 9579, which easement is more particularly described as Area 1 through Area 10 and located as shown graphically on the property drawings hereinabove.